

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

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be honored and was honored.

The United States government, in my opinion, in refusing to recognize the tribes that came to a peaceful agreement with the new settlers in this country, is a miscarriage, and those nations that still exist in total, those that have maintained their tribal existence, their ethnic existence, deserve the same treatment. I say to you that the Indians, the Penobscot Nation and the Passamaquoddy's, are a nation within a nation. They deserve to be allowed to govern their nation in the manner in which they desire. I most certainly hope that you would support this motion and override the Governor's veto.

The SPEAKER: The pending question is, shall this bill become law not withstanding the objections of the Governor? Pursuant to the Constitution of the State of Maine, the vote will be taken by roll call. This requires a two-thirds vote of all those present and voting. All those in favor of this bill becoming law notwithstanding the objections of the Governor will vote yes; those opposed will vote no.

ROLL CALL No. 179V

YEAS:—Allen, Baker, H.R.; Beaulieu, Begley, Bonney, Bost, Bott, Boutillier, Brodeur, Brown, D.N.; Callahan, Carrier, Carroll, Cashman, Chonko, Clark, Coles, Connors, Connolly, Cote, Daggett, Dellert, Dexter, Drinkwater, Erwin, Farnum, Foss, Greenlaw, Heppburn, Hichborn, Hoglund, Holloway, Ingraham, Jackson, Jacques, Jalbert, Kimball, Lacroix, Law, Lawrence, Lebowitz, MacBride, Masterman, McGowan, McHenry, McPherson, Michael, Mills, Mitchell, Moholland, Murphy, E.M.; Murphy, T.W.; Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Perry, Pouliot, Rice, Rioux, Rolde, Rotondi, Ruhlman, Rydell, Scarpino, Sherburne, Simpson, Small, Smith, C.B.; Smith, C.W.; Stetson, Stevens, A.G.; Tardy, Taylor, Vose, Walker, Warren, Webster, Wentworth, Whitcomb, Zirkilton.

NAYS:—Aliberti, Armstrong, Baker, A.L.; Bell, Bragg, Brannigan, Brown, A.K.; Cahill, Carter, Crouse, Davis, Descoteaux, Diamond, Dillenback, Foster, Gwadnosky, Hale, Handy, Harper, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Joseph, Lander, Lisnik, Lord, Macomber, Manning, Matthews, Mayo, McCollister, McSweeney, Melendy, Michaud, Murray, Nadeau, G.G.; Paul, Pines, Priest, Richard, Ridley, Roberts, Salsbury, Seavey, Soucy, Sproul, Stevens, P.; Stevenson, Strout, Swazey, Tammara, Telow, Theriault, Willey, The Speaker.

ABSENT:—Cooper, Crowley, Duffy, Kane, Martin, H.C.; Racine, Randall, Weymouth.

81 having voted in the affirmative and 62 in the negative with 8 being absent, the veto was sustained.

Representative Reeves of Pittston, having voted on the prevailing side, moved the House reconsider its action whereby the House failed to override the Governor's veto.

The same Representative further moved the matter be tabled for one legislative day pending her motion to reconsider.

Representative Strout of Corinth requested a roll call vote on the tabling motion.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Reeves of Pittston that this matter be tabled one legislative day. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 180

YEAS:—Baker, H.R.; Beaulieu, Begley, Bon-

ney, Bost, Bott, Boutillier, Brodeur, Carroll, Cashman, Chonko, Coles, Connors, Connolly, Cote, Crouse, Daggett, Dellert, Dexter, Drinkwater, Erwin, Farnum, Foss, Greenlaw, Gwadnosky, Harper, Heppburn, Hichborn, Holloway, Ingraham, Jackson, Jacques, Jalbert, Kimball, Lacroix, Law, Lawrence, MacBride, Masterman, Mayo, McGowan, McHenry, McPherson, Michael, Mills, Mitchell, Moholland, Murphy, E.M.; Murphy, T.W.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Perry, Pouliot, Reeves, Rice, Rioux, Rolde, Rotondi, Ruhlman, Rydell, Scarpino, Sherburne, Simpson, Small, Smith, C.B.; Smith, C.W.; Stetson, Stevens, A.G.; Tardy, Taylor, Vose, Walker, Warren, Webster, Wentworth, Whitcomb, Zirkilton.

NAYS:—Aliberti, Armstrong, Baker, A.L.; Bell, Bragg, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carter, Clark, Davis, Descoteaux, Diamond, Dillenback, Foster, Hale, Handy, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Joseph, Lander, Lebowitz, Lisnik, Lord, Macomber, Manning, Matthews, McCollister, McSweeney, Melendy, Michaud, Murray, Nadeau, G.G.; Paul, Pines, Priest, Richard, Ridley, Roberts, Salsbury, Seavey, Soucy, Sproul, Stevens, P.; Stevenson, Strout, Swazey, Tammara, Telow, Theriault, Willey, The Speaker.

ABSENT:—Allen, Carrier, Cooper, Crowley, Duffy, Kane, Martin, H.C.; Racine, Randall, Weymouth.

83 having voted in the affirmative and 58 in the negative with 10 being absent, the motion did prevail.

The Chair laid before the House the following matter: Bill "An Act to Establish a State Policy Relating to the Disposal of Low-level Radioactive Waste" (H.P. 1141) (L.D. 1649) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Scarpino of St. George offered House Amendment "A" (H-375) and moved its adoption.

House Amendment "A" (H-375) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: A brief explanation of this amendment to start with.

First, in reference to the questions I had raised yesterday in the debate, this amendment on Page 3, lines 16 to 20, would change the wording involving interstate compacts. If the terms of the compact do not exclude this state from the possibility of hosting a waste facility, that compact must be approved by the voters in a statewide election.

That wording would change that, "if the compact required this state." It would take care of what I view as being an inconsistency or the capability to agree to a compact that did not require this state but would hold out the possibility of the state hosting the facility.

If I just read the Statement of Fact, perhaps it will cover it. "It is the intent of this amendment to change the competing measures sponsored by the Joint Standing Committee on Energy and Natural Resources, so that it calls for voter approval of any facility which would be established in the state to extend its power to the regulation of long term storage as well as permanent disposal of low-level radioactive waste and to call for voter approval of any compact which holds out the possibility that Maine might have to host a facility for out of state waste."

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I move the indefinite

postponement of House Amendment "A".

I hope you will go along with me on indefinite postponement of House Amendment "A". There are several problems. If you recall, Representative Scarpino was against the Majority Report. If you look at the question that he has in his amendment, which will be the competing measure against the bill that he is in favor of on the Minority Report—I had that question run through the flush test which the Secretary of State's Office does. He informed me that this here is at least a sophomore in college and it is a difficult test.

Another concern I have with his amendment is that when the federal government gave the state authority to deal with disposal, it does not give them authority for long term storage so there are constitutional problems with his amendment.

In the Majority Report of the committee, he is talking about compacts, I will make it clear—if there is a compact and the State of Maine enters into a compact, first of all, the legislature would have to approve that compact. If in that compact, a site is chosen in Maine, then the voters will have an opportunity to vote on that site.

So, I hope you will go along with me on the motion to indefinitely postpone House Amendment "A".

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I would pose a question through the chair to the Chairman of the Energy and Natural Resources Committee.

If the site of Maine Yankee was picked as a site at that time in a compact, would the voters have a chance to vote on the Maine Yankee site if that is chosen to be the area of the waste being kept?

The SPEAKER: Representative Mills of Bethel has posed a question through the Chair to the Representative from Medway, Representative Michaud, who may respond if he so desires.

The Chair recognizes that Representative.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I do appreciate Representative Mills question as I know he is very concerned about this issue and he has spent a lot of time on the issue.

If there is a compact and Maine Yankee is the site and we are going to have waste imported from out of state, the voters will vote on it. The only time the voters will not vote on whether or not Maine Yankee is to store waste is, if it is for Maine waste only. If it is out of state waste, they will have a chance to vote.

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Brown.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: There has been a lot of confusion about this issue. I think that the amendment before us confuses it even further. As an additional response to the recent question just asked concerning the Maine Yankee site, I think it is important to point out that, with the competing measure, this Fall the voters will have an opportunity to vote on the Maine Yankee site. I think that is important. I think it is also important to point out that we should keep at a minimum the kinds of technical questions dealing with a singular issue that we passed out to the voters of Maine.

If this amendment before us were to be adopted, this amended version as presented by Representative Scarpino, let me lay out a scenario that could develop. If Maine, New Hampshire and Vermont entered into a possible compact, which again, as Representative Michaud pointed out, would have to be approved by the Maine Legislature and if that compact even hinted that Maine may be the host state, along with the other two states, then Representative Scarpino's amendment

says that that compact shall go out to the voters. So the voters of Maine would have to determine whether or not that compact should be accepted along with the Maine Legislature. If that compact were accepted by both the Maine Legislature and by the voters of Maine, then there would be a follow up referendum of — should Maine be included as a site?

I think that we are really confusing the voters. We are confusing them badly by trying to shove so many referendum questions to them on the same issue. Our committee worked long and hard at coming up with this competing measure. There was a lot of time spent trying to iron out all of the problems and trying to come up with a question that met the test that Representative Michaud spoke of earlier; which met the test in similar fashion as the initiated bill did. So, let's not confuse this issue any more. The issue before the voters in the Fall will be very clear. Let's keep it that way.

I urge you to support the indefinite postponement motion.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair.

On Page 2 of the amendment, lines 27 through 31, it talks about curtailment of existing disposal facilities and it says that those facilities will be closed by January 1, 1993. It is my understanding of federal law that those facilities will be closed on January 1, 1986. Am I right or are you right?

The SPEAKER: Representative Mitchell of Freeport has posed a question through the Chair to Representative Scarpino of St. George, who may respond if he so desires.

The Chair recognizes that Representative Scarpino: Mr. Speaker, Men and Women of the House: In response to that, let me say quite simply that the Representative from Freeport has raised some doubt in my mind and to be quite frank at this point, I would have to do a little further research. I thought I was correct. I may not be based on your information. I would like time to check it before I make an answer.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose another question.

On Page 4, lines 33 through 38, where it discusses long term storage and processing facilities, it separates nuclear power plants from biomedical and research facilities — do you think that provision will stand the equal protection test of the United States Constitution?

The SPEAKER: Representative Mitchell of Freeport has posed an additional question through the Chair to Representative Scarpino of St. George, who may respond if he so desire.

The Chair recognizes that Representative Scarpino: Mr. Speaker, Men and Women of the House: In response to Representative Mitchell, yes, I do, However, I am not a constitutional lawyer, neither is the Representative from Freeport.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Men and Women of the House: The competing measure — I voted against it yesterday because of the questions I had about whether or not we would be required to take out of state waste without being able to vote on it. I think the competing measure has a lot of things good about it. It mentions Maine Yankee in it as being the preferred site if we are able to find that it is geologically acceptable. I like that. I think it is good to start zeroing in on an area and start

looking into that area and finding out what the site is.

One of the things that I am disturbed about though with the current proposal, the competing measure that we have, is that the voters will not vote on what type of facility we will be using if the Maine Yankee site is accepted. Now, the reason that I am disturbed about that is, currently in the United States we have had six commercial sites for low-level storage of disposal waste and three of those facilities have been closed out of the six, West Valley, New York; the Mini Flats in Kentucky and Sheffield, Illinois. Three out of the six were closed because of leakage. I think it is very important that, even if Maine Yankee is picked as a site, that we know what type of storage or disposal unit they are going to be using. That is one of the things that disturbs me about the competing measure and one thing that the amendment by Representative Scarpino helps, I feel, to make the bill better in that sense is that the people will have the right to vote on what type of facility will be used at Maine Yankee, not just whether or not we want to have it stored at Maine Yankee, which I agree with, which I would like to have if we could but beyond that, to know what type of facility is going to be built and whether or not the voters of Maine think that is a good facility to have there. Whether or not they want to go with the type that has been used in other states where perhaps there has been leakage or a new above ground storage or whatever. I think that whatever is decided upon should have to go out to the voters of Maine and for them to have a chance to decide whether or not they think that is going to be a safe disposal or storage facility. So, that is something I think is very good about the amendment that Representative Scarpino is offering and I hope you will consider that.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: The critical passage of this amendment is not the issue raised by Representative Mills but the question which we pose to the voters. If you wish the alternative referendums ultimate fate to be determined right now, you should support this amendment, because if this amendment is approved, the alternative referendum will be defeated surely.

The initiated referendum and the committee referendum or committee proposal has a degree of difficulty, rating on the question of approximately grade nine. This has a degree of difficulty reading of grade 18 or 19. History has shown very clearly that if people don't understand the question, they won't vote for it. If you want to offer the people a real choice of alternatives rather than predetermine the results today, you should support the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: Just a little thing in response to what has been presented by the good Representative from Harpswell, Mr. Coles. He claims that this question would require an education level of grade 18 or 19. I don't have that degree of education, I only go up to grade 16 myself. Let me read it to you. "Do you want the right to vote on any plan for the storage of or disposal of low-level radioactive waste in those cases where the State of Maine may be required to locate the disposal facility inside its borders? If it takes a masters degree to understand that sentence, we had best very seriously look at our educational system. That is a simple question, every person I have run it by, some of whom do not have high school diplomas, haven't had any difficulty understanding it. I don't feel it adds to any confusion. I think it

clarifies by simplifying.

I would urge you to oppose the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct myself, I did make a mistake. It was not grade 18, I was thinking of age. It was grade 14 or 15. This is based upon the Secretary of State's so-called flush test, which the state instituted as a policy a few years ago when it found the voters were becoming confused by questions on the ballot. This test is intended to indicate how understandable a question is. If you have competing questions and wanted substantially it more easy to understand than the other, the easier question wins.

Representative Scarpino of St. George requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Michaud of Medway that the House indefinitely postpone House Amendment "A". Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 181

YEAS:—Aliberti, Armstrong, Baker, A.L.; Begley, Bost, Bott, Boutillier, Bragg, Brannigan, Brown, A.K.; Brown, D.N.; Carter, Clark, Coles, Cooper, Cote, Crouse, Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Dillenback, Drinkwater, Erwin, Farnum, Foss, Foster, Hale, Handy, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Hoglund, Holloway, Ingraham, Jacques, Jalbert, Joseph, Lacroix, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Martin, H.C.; Masterman, Matthews, McColister, McGowan, McPherson, McSweeney, Melendy, Michael, Michaud, Mitchell, Moholland, Murphy, E.M.; Murphy T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Parent, Paul, Perry, Pines, Pouliot, Rice, Richard, Ridley, Rioux, Roberts, Rotondi, Ruhlin, Salsbury, Seavey, Simpson, Small, Smith, C.B.; Stevens, A.G.; Stevens, P.; Strout, Swazey, Tammaro, Tardy, Taylor, Telow, Theriault, Vose, Walker, Warren, Webster, Wentworth, Whitcomb, Willey, The Speaker.

NAYS:—Allen, Baker, H.R.; Bell, Brodeur, Cahill, Callahan, Carroll, Connors, Connolly, Greenlaw, Gwadnosky, Jackson, Kimball, Manning, McHenry, Mills, Priest, Reeves, Rydell, Scarpino, Sherburne, Smith, C.W.; Soucy, Sproul, Stetson, Stevenson.

ABSENT:—Beaulieu, Bonney, Carrier, Cashman, Chonko, Crowley, Duffy, Higgins, H.C.; Kane, Lander, Mayo, Paradis, P.E.; Racine, Randall, Rolde, Weymouth, Zirkkilton.

108 having voted in the affirmative and 26 in the negative with 17 being absent, the motion did prevail.

Thereupon, the Bill was passed to be engrossed and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: An Act Concerning Nomination Petitions for Unenrolled Candidates (H.P. 1063) (L.D. 1542) which was tabled earlier in the day and later today assigned pending the motion of Representative Smith of Island Falls that the House recede and concur.

Representative Smith of Island Falls